

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1925-AIR-E **TCEQ ID:** RN100814912 **CASE NO.:** 35009
RESPONDENT NAME: Avis Rent A Car System, LLC

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Avis Rentals, 6520 Convair Road, El Paso, El Paso County

TYPE OF OPERATION: Fuel distribution station

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 12, 2008. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Brandon Moore, Service Manager, Avis Rent A Car System, LLC, 6520 Convair Road, El Paso, Texas 79925
Mr. Paul A. Fen, Environmental Compliance, Avis Rent A Car System, LLC, 6520 Convair Road, El Paso, Texas 79925
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 1, 2007</p> <p>Date of NOV/NOE Relating to this Case: November 9, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failed to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 through March 31. Specifically, a sample taken from the regular unleaded gasoline at pump number 1 was found to be 0.0% oxygen content by weight [30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$1,170</p> <p>Total Deferred: \$234 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$936</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent received a new shipment of oxygenated fuel on October 3, 2007, bringing them into compliance.</p>

Additional ID No(s): EE0865V



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES

Assigned

12-Nov-2007

PCW

28-Nov-2007

Screening

28-Nov-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Avis Rent A Car System, LLC

Reg. Ent. Ref. No. RN100814912

Facility/Site Region 6-El Paso

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 35009

Docket No. 2007-1925-AIR-E

Media Program(s) Air

Multi-Media

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 1

Order Type 1660

Enf. Coordinator Lindsey Jones

EC's Team Enforcement Team 4

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 42% Enhancement

Subtotals 2, 3, & 7 \$420

Notes

The penalty was enhanced due to one prior dissimilar NOV and two prior 1660-style agreed orders.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25%

Reduction

Subtotal 5 \$250

Before NOV

NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent returned to compliance on October 3, 2007.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$0

Approx. Cost of Compliance \$600

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$1,170

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$1,170

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$1,170

DEFERRAL

20%

Reduction

Adjustment -\$234

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$936

Screening Date 28-Nov-2007

Docket No. 2007-1925-AIR-E

PCW

Respondent Avis Rent A Car System, LLC

Policy Revision 2 (September 2002)

Case ID No. 35009

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100814912

Media [Statute] Air

Enf. Coordinator Lindsey Jones

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 42%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty was enhanced due to one prior dissimilar NOV and two prior 1660-style agreed orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 28-Nov-2007		Docket No. 2007-1925-AIR-E		PCW	
Respondent Avis Rent A Car System, LLC		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 35009		<i>PCW Revision November 6, 2007</i>			
Reg. Ent. Reference No. RN100814912					
Media [Statute] Air					
Enf. Coordinator Lindsey Jones					
Violation Number 1					
Rule Cite(s)		30 Tex. Admin. Code § 114.100(a) and Tex. Health & Safety Code § 382.085(b)			
Violation Description		Failed to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 through March 31, as documented by an investigation conducted on October 1, 2007. Specifically, a sample taken from the regular unleaded gasoline at pump number 1 was found to be 0.0% oxygen content by weight.			
		Base Penalty		\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual			x	
	Potential				Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
				Percent 0%

Matrix Notes

Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

Violation Events

Number of Violation Events	1	3	Number of violation days
----------------------------	---	---	--------------------------

<i>mark only one with an x</i>	daily							
	monthly							
	quarterly							
	semiannual							
	annual							
	single event	x						

One single event is recommended.

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$0	Violation Final Penalty Total	\$1,170
This violation Final Assessed Penalty (adjusted for limits)			\$1,170

Economic Benefit Worksheet**Respondent** Avis Rent A Car System, LLC**Case ID No.** 35009**Reg. Ent. Reference No.** RN100814912**Media Air****Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	------------------------------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$600	1-Oct-2007	3-Oct-2007	0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of implementing procedures to ensure the required oxygenated fuel content is maintained. Date required is the investigation date and the final date is the date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$600

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN603273137	Avis Rent A Car System, LLC	Classification: AVERAGE	Rating: 9.30
Regulated Entity:	RN100814912	AVIS RENTALS	Classification: AVERAGE	Site Rating: 9.30
ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	EE0865V	
	PETROLEUM STORAGE TANK	REGISTRATION	43690	
	PETROLEUM STORAGE TANK STAGE II	REGISTRATION	43690	
Location:	6520 CONVAIR RD, EL PASO, TX, 79925		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 06 - EL PASO			
Date Compliance History Prepared:	December 13, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 13, 2002 to December 13, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Lindsey Jones	Phone:	512-239-4930	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/13/2004

ADMINORDER 2003-0565-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Offered gasoline for sale for use as motor vehicle fuel in El Paso County that failed to meet the 2.7% by weight minimum oxygen content.

Effective Date: 05/28/2006

ADMINORDER 2005-2065-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to comply with 30 TAC Chapter 114.100(a) Oxygenated Fuel requirement.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 12/18/2002 | (18715) |
| 2 | 10/24/2003 | (252076) |
| 3 | 11/19/2003 | (254736) |
| 4 | 08/03/2004 | (283500) |
| 5 | 12/09/2005 | (439484) |
| 6 | 02/20/2006 | (450394) |
| 7 | 07/12/2006 | (486342) |
| 8 | 05/02/2007 | (543568) |
| 9 | 11/06/2007 | (600116) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/02/2007 (543568)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify proper operation of the Stage II equipment.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AVIS RENT A CAR SYSTEM, LLC
RN100814912**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1925-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Avis Rent A Car System, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a fuel distribution station at 6520 Convair Road in El Paso, El Paso County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 14, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand One Hundred Seventy Dollars (\$1,170) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Hundred Thirty-Six Dollars (\$936) of the administrative penalty and Two Hundred Thirty-Four Dollars (\$234) is deferred contingent upon

the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent received a new shipment of oxygenated fuel on October 3, 2007, bringing them into compliance.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have failed to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 through March 31, in violation of 30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 1, 2007. Specifically, a sample taken from the regular unleaded gasoline at pump number 1 was found to be 0.0% oxygen content by weight.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Avis Rent A Car System, LLC, Docket No. 2007-1925-AIR-E" to:

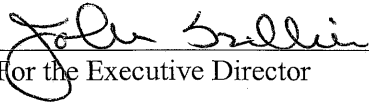
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/15/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

2.26.08

Date

Paul A. Fen

Name (Printed or typed)
Authorized Representative of
Avis Rent A Car System, LLC

Environmental Compliance

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

